

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

ANTHONY J. KINNEY, ET AL.

CASE NO.: BB1071USDIV2

APPLICATION NO.: 10/757,667

CONFIRMATION NO.: 7292

GROUP ART UNIT: 1638

EXAMINER: VINOD KUMAR

FILED: JANUARY 14, 2004

FOR: SUPPRESSSION OF SPECIFIC CLASSES OF SOYBEAN SEED PROTEIN
GENES

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Via EFS-Web

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is submitted in response to the Notification of Non-Compliant Appeal Brief mailed on April 14, 2009. It is respectfully requested that Section V be replaced with the following:

(V) Summary of Claimed Subject Matter

The invention on appeal concerns food comprising a soy protein product prepared from transgenic soybeans seeds having a reduced quantity of soybean seed storage protein prepared by methods recited in the claims and, also, that constitute the subject matter of U.S. Patent No. 6,703,544 issued on March 9, 2004 to Fader et al.

Claim 22 recites food comprising a soy protein product prepared from transgenic soybean seeds having a reduced quantity of soybean seed storage protein and prepared by a method comprising:

- (a) constructing a chimeric gene comprising:
 - (i) a nucleic acid fragment comprising a promoter that is functional in the cells of soybean seeds;
 - (ii) a nucleic acid fragment encoding all or a portion of a soybean seed storage protein placed in sense or antisense orientation relative to the promoter of (i) wherein said soybean seed storage protein is selected from the group consisting of glycinin and β -conglycinin; and
 - (iii) a transcriptional termination region;
- (b) creating a transgenic soybean cell by introducing into a soybean cell the chimeric gene of (a); and
- (c) growing the transgenic soybean cells of step (b) which express the chimeric gene of step (a)

wherein the quantity of one or more members of a class of soybean seed storage protein subunits is reduced when compared to soybean seeds not comprising the chimeric gene of step (a), and wherein the class of soybean seed storage protein subunits is selected from the group consisting of: glycinin and β -conglycinin.

Support for this claim can be found on pages 1 and 2 and elsewhere in the specification, in particular, the examples and claims as originally filed.

Claim 23 is similar to Claim 22 except that food comprises a soy protein product prepared from transgenic soybean seeds prepared by a method for simultaneously reducing expression of two soybean genes. Support for this claim can be found on pages 1-2 of the specification, and elsewhere in the specification, in particular, the examples and claims as originally filed.

Claim 24 recites food comprising a soy protein prepared from transgenic soybean seeds obtained from a soybean plant transformed at a single locus in its genome with a chimeric gene comprising at least a portion of a glycinin or a β -conglycinin gene for reducing the amount of at least one soybean seed storage protein in soybean seeds wherein the seed storage protein is selected from the group consisting of glycinin and β -conglycinin, when compared to seeds obtained from a soybean plant not comprising the chimeric gene in its genome.

Support for this claim can be found on pages 1-2 of the specification, in Example 2 and further data relating to Example 2 was set forth in the declaration of Dr. Anthony Kinney, one of the co-inventors of the subject application. A copy of Dr. Kinney's declaration dated June 29, 2001 is set forth in Evidence Appendix A. Also included in Evidence Appendix B is a copy of Dr. Gary Fader's declaration dated June 27, 2001. Dr. Fader's declaration shows that all the glycinin subunits were suppressed when truncated form of the G1 and G4 subunits were expressed in a sense orientation under the control of a Kti promoter.

Remarks

Submitted herewith are replacement pages for Section V. It is believed that these replacement pages address the defect raised in the Notification of Non-compliant Appeal Brief mailed on April 13, 2009. Section V now has the correct heading.

Please charge any fees or credit any overpayment associated with the filing of this Response including, but not limited to any Extension of Time, to Deposit Account No. 04-1928 (E. I. du Pont de Nemours and Company).

Respectfully submitted,

/Lynne M. Christenbury/

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